

PUBLIC UTILITIES

BOARD OF PUBLIC UTILITIES

Electric Service

Readoption with Amendments: N.J.A.C. 14:5

Adopted New Rule: N.J.A.C. 14:5-2.7

Proposed: April 1, 2002 at 34 N.J.R. 1390(a).

Adopted: August 21, 2002 by the Board of Public Utilities, Jeanne M. Fox,

President, and Frederick F. Butler, Carol J. Murphy and Connie O.

Hughes, Commissioners.

Filed: , 2002 as R.2002 d. , **with substantive changes** not requiring
additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 48:2-13

BPU Docket Number EX02020053

Effective Date:

Expiration Date:

Summary of Public Comments and Agency Responses:

The Board received written comments from John L. Carley, Esq., Assistant General Counsel, Consolidated Edison Company of New York, for Rockland Electric Company (RECO); Lawrence E. Sweeney, Manager-Regulatory Affairs, Jersey Central Power and Light Company (JCP&L); Gregory Eisenstark, Esq., Assistant General Solicitor, Public Service Electric and Gas Company (PSE&G); Roger E. Pedersen, Regulatory Affairs,

Conectiv, for Atlantic City Electric Company (ACE); David C. Shaw, Superintendent Director, Monmouth County Shade Tree Commission (MCSTC); Steve Chisholm, Manager, Aspen Tree Expert Co. Inc. ("Aspen"); Dr. Mark Vodak, Professor, Rutgers University-Cook College ("Rutgers"); John E. Perry, Certified Tree Expert; The Committee for the Advancement of Arboriculture ("CAA"); and Gary Lovallo, President, New Jersey Chapter, International Society of Arboriculture ("ISA"). All comments addressed Subchapter 6, Electric Transmission Lines only.

1. **COMMENT:** RECO suggests that N.J.A.C. 14:5-6.1, requirements for electric transmission lines, be broadened to include underground electric transmission lines because a utility's access to perform maintenance on these facilities is as critical as on overhead transmission lines. RECO believes that vegetation maintenance requirements for underground facilities are significantly different from those of overhead facilities and these need to be articulated in this section.

RESPONSE: While the Board sees some merit in the suggestion to include requirements for underground electric transmission lines as well, RECO has not identified those requirements. RECO may renew its suggestion in an appropriate future rulemaking proceeding involving vegetation management standards.

2. **COMMENT:** N.J.A.C. 14:5-6.1(a) 3 provides that whenever an electric company constructs an overhead transmission line, it shall establish a program of painting towers initially and periodically in order to camouflage their appearance as much as possible. ACE suggests adding "and to the extent consistent with the need for protection" after "as much as possible". With this modification, ACE feels that it would be clear that

there is to be an appropriate balance between the goals of camouflage and the protection of assets. ACE notes that it currently paints its existing towers the color of light gray that provides a long lasting protective coating for the towers as well as an appropriate degree of camouflage. ACE has indicated that most of its newer poles are planned to be weathering steel that will not need painting. Thus, ACE contends that with the additional language, assets that do not need paint for protection would not be painted and assets that do need paint for protection would be painted using materials that are both long-lasting and provide an appropriate degree of camouflage. With regard to electric transmission poles, RECO believes that the painting of wood poles does not create a problem in that said poles do not require painting. Since tubular steel poles have to be galvanized in order to protect the inside of the pole. RECO states that requiring painting is problematic because paint will not adhere properly to the poles that have been galvanized. According to RECO, these steel poles can only be painted properly after the galvanizing has weathered on the outside of the pole, a process that usually occurs over a period of 10 to 15 years. RECO notes that, in contrast, lattice towers can be painted from the time they are constructed but goes on to state that at the time of construction, painting is not recommended since the best preparation for any steel surface is to initially galvanize the steel.

RESPONSE: The Board believes that the language suggested by ACE clarifies the dual goals of camouflage and asset protection consistent with recent mandated heightened security measures that have resulted from the events of September 11, 2001. Accordingly, that language will be adopted. As to RECO's suggestion regarding the painting of poles, the Board believes that N.J.A.C. 14:5-6.1(a) 3 currently provides

flexibility to the utility in establishing its painting program and allows the utility to use its judgment and discretion with regard to the painting of its individual towers and poles.

ACE summed it well: “Assets that do not need paint to be protected would not be painted and assets that do need paint to be protected would be painted using materials that provide long-lasting protection and an appropriate degree of camouflage.” Thus the adoption of the language recommended by ACE will apply to RECO’s concern as well.

3. **COMMENT:** PSE&G requests clarification from the Board that the requirements of N.J.A.C. 14:5-6.1(a) 4 do not apply to an electric utility’s transmission right-of-way maintenance and tree-trimming procedures as it is PSE&G’s belief that these requirements apply only to the construction of overhead transmission lines. However, should the Board interpret this rule to apply to transmission right- of- way maintenance procedures, PSE&G recommends replacing the word “nonuniform” with “appropriate, industry-accepted practices for” and deleting the phrase “and maintenance.” RECO suggests that N.J.A.C. 14:5-6.1(a) 4 be amended to clarify that any “mature trees” that are allowed to remain on the right-of-way must be of a species that is compatible with overhead electric transmission lines. JCP&L suggests that selective clearing of trees and vegetation located within the right-of-way corridor be employed, including the removal of incompatible trees and vegetation that are interfering or may potentially interfere with the operation of transmission facilities. Trees located beyond the edge of the right-of-way that may potentially interfere with the transmission facilities are to be evaluated to determine whether pruning or removal is required. MCSTC, ASPEN, ISA and CAA assert that electric companies should incorporate known pruning standards such as ANSI Z.133.1 and ANSI A300 into their maintenance plans and recommend

the utilization/hiring of a professional tree expert certified by the State of New Jersey to supervise maintenance crews to therefore insure proper removal or maintenance of trees. MCSTC and CAA suggest the implementation of a tree replacement program for any trees deemed necessary for removal because of infringement on power lines to insure that streets will be tree covered according to best management practices.

RESPONSE: The intent of the Board is and has been to require that electric companies employ nonuniform clearing practices, when appropriate and wherever possible, not only at the time of constructing facilities, but also when maintaining said facilities during the period in which they are in service. PSE&G's interpretation that N.J.A.C. 14:5-6.1 is limited to the construction of overhead facilities is not consistent with the intent of the Board. The Board believes that the modification of N.J.A.C. 14:5-7.7(a), relating to inspection and maintenance programs, to include specific reference to the utilization of a nonuniform clearing policy, would be the most appropriate method by which to eliminate any ambiguities and to make it clear that the utilization of such policy is as appropriate for facility maintenance after construction as it is during facility construction. The Board will, therefore, initiate an appropriate rulemaking proceeding that is consistent with the Administrative Procedure Act in order to implement the necessary amendments to N.J.A.C. 14:5-7.7(a).

While the Board finds the recommendations regarding tree or vegetation management proposed by MCSTC, ASPEN, ISA, CAA, ACE, JCP&L and RECO to be meritorious, the implementation of these recommendations would require additional notice and comment. Accordingly, the Board shall also address these recommendations in a subsequent appropriate rulemaking proceeding.

4. **COMMENT:** ACE recommends that compliance with the requirement in N.J.A.C. 14:5-6.1(a) 5 pertaining to the landscaping of the right-of-way should be consistent with “sound management policy” rather than by specifying the planting of shrubs. ACE believes that the goal should be to develop a shrub screen with native plants and not those that are considered to be non-native or exotic species. RECO argues that the landscaping requirements should consider the characteristics of the surrounding area and should not hinder but be subordinate to the electric company’s need to access the right-of-way. RECO concludes that ensuring the electric company’s adequate access to the right-of-way will bolster reliability (by avoiding line security zone violations) and facilitate the safety of both the public and utility workers. JCP&L recommends that the language in paragraph (a)5 be amended to state that “compatible trees and vegetation that will not interfere with transmission facilities should not be disturbed unless removal is required to construct or access transmission facilities.” PSE&G recommends amending (a)5 to read as follows:

With respect to inspection and maintenance of overhead transmission lines and rights-of-way, each electric utility shall have inspection and maintenance programs in place for its transmission facilities, as appropriate to furnish safe, proper, and adequate service. These programs shall be based on factors such as applicable industry codes, national electric industry practices, manufacturer’s recommendations, sound engineering judgment and past experience.

RESPONSE: The Board agrees with the four utilities that the goals of the landscaping requirements are geared towards accessibility and safety. The Board, however, is of the opinion that the requirements in N.J.A.C. 14:5-6.1(a) 5 apply only to cases in which an electric company constructs an overhead transmission line rather than to the inspection and maintenance of overhead transmission lines and rights-of-way as referred to by PSE&G in its recommendation. The Board notes that requirements involving inspection and maintenance of transmission lines are already provided in N.J.A.C. 14:5-7.7, inspection and maintenance programs, and in N.J.S.A. 48:3-96, standards for inspection, maintenance, repair and replacement of distribution equipment. Accordingly, the Board is of the opinion that no modification to N.J.A.C. 14:5-6.1 (a) 5 is necessary at this time.

5. **COMMENT:** MCSTC and CAA recommend that the rules require that electric companies give advanced notification to municipalities and counties of work scheduled in any particular area. No specific amount of time was specified.

RESPONSE: The Board notes that N.J.S.A. 48:3-17.10, notice to landowner before entry, requires a five-day notice by the public utility to the landowner for entry to easements or rights-of-way, personally, or by certified or registered mail to the owner at his address. This notice would be provided to a municipality or a county in the event that such governmental unit is the owner of the property on which the utility wished to enter. The Board would also note that any use of the public right-of-way during the anticipated work may well have to be coordinated with local and county governments in areas such as traffic control and equipment storage. The comments of MCSTC and

CAA do not provide any support for the need of the proposed requirement and the Board is unaware of any specific problems that face these governmental entities that could or would be alleviated or eliminated by adopting this suggestion. Accordingly, in the absence of an ownership interest, the Board does not believe that a specific notice to municipalities or counties of all work scheduled in any particular area is warranted at this time.

6. **COMMENT:** Rutgers is of the opinion that the requirements in N.J.A.C. 14:5-6.1 appear straightforward, reasonable and within the Mission of the Board to protect the environment and the residents of New Jersey.

RESPONSE: The Board is appreciative of Rutgers' comment.

Federal Standards

The rules proposed for readoption with amendments contain, in N.J.A.C. 14:5-5.1, the adoption by reference of the Uniform System of Accounts for Classes A and B Electric Utilities that have been promulgated by the Federal Energy Regulatory Commission (FERC) as well as any subsequent amendments, revisions, deletions and corrections which FERC may make thereto. The remainder of the subject matter of the rules proposed for readoption with amendments is not the subject of any Federal law, rule or regulation.

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 14:5.

Full text of the amendments follows (additions to proposal indicated in

boldface with asterisks **thus**; deletions from proposal indicated in brackets with asterisks *[thus]*:

14:5-1.8 Depth of buried cables

Where communication and power supply cables of over 550 volts between conductors are buried without separation in the same trench or without mechanical protection, the power cable shall be buried to a minimum of 30 inches of cover except under railroad tracks where they shall be buried with a minimum cover of 42 inches. In rock, 24-inch minimum cover will be acceptable or a lesser cover will be accepted where an adequate means of mechanical protection is provided.

14:5-2.3 Adequacy of service

(a) Electric utilities supplying electrical energy on a constant potential system shall adopt and maintain a standard average value of voltage as measured at the point of attachment to the customer's wiring; and the normal variations, as measured by a standardized voltmeter, shall not vary for periods exceeding five minutes for service supplied at 150 volts or less to ground more than four percent above, nor more than four percent below said standard average voltage for said location which is in force at the time; provided, however, the variations in voltage caused by the operation of apparatus in the customer's premises in violation of the utility's rules, the action of the elements, or other causes beyond the utility's control shall not be considered a violation of this provision.

(b) (No change.)

14:5-2.7 Accidents

Each electric utility shall report accidents in conformance with the provisions of N.J.A.C. 14:3-6.4

14:5-4.4 Installation of underground distribution system with subdivision

(a)-(f) (No change.)

(g) Such amounts as the public utility receives pursuant to its tariff, in accordance with this subchapter and not subject to further refund, shall be credited to the appropriate utility plant account or accounts.

(h)-(n) (No change.)

14:5-4.7 Cooperation by applicant

(a) (No change.)

(b) Should unusual circumstances arise which unreasonably would delay underground service, temporary facilities may be installed in whatever manner is most practical under the circumstances, provided, however, that such temporary facilities shall be replaced as soon as practical with a permanent installation in accordance with the provisions of this subchapter.

(c) (No change.)

14:5-5.2 Adoption by reference of rules concerning preservation of records; electric utilities

(a)-(b) (No change.)

(c) Copies of the full text of these rules are available for examination in the Board's offices in Two Gateway Center, Newark, New Jersey 07102. Copies of these rules may be purchased from the National Association of Regulatory Utility Commissioners, 1101 Vermont Avenue, NW, Washington, D.C. 20005.

14:5-6.1 Requirements for electric transmission lines

(a) Whenever an electric company constructs an overhead transmission line, it shall:

1.-2. (No change.)

3. Establish a program of painting towers initially and periodically in order to camouflage their appearance as much as possible ***and to the extent consistent with the need for protection***;

4.-7. (No change.)

14:5-7.2 Definitions

...

"Major event" means any of the following:

1.-3. (No change.)

4. When mutual aid is provided to another EDC or utility, the assisting EDC may apply to the Board for permission to exclude its sustained interruptions from its CAIDI and SAIFI calculations.

Interruptions occurring during a major event in one or more operating areas shall not be included in the EDC's CAIDI and SAIFI calculations of those affected operating area(s). However, interruption data for major events shall be collected, according to the reporting requirements outlined in N.J.A.C. 14:5-7.9.

...

14:5-7.6 Individual circuit reliability performance

(a) Upon request of the Board, each EDC shall be able to identify reliability performance on a basis predefined by the EDC for any circuit on its system.

(b) (No change.)

14:5-7.8 Annual System Performance Report

(a) Each EDC shall submit to the Board, on May 31, 2001, May 31, 2002 and September 1, 2002, an Annual System Performance Report (the "Annual Report"); provided, however, that the September 1, 2002 Annual Report shall be limited to CAIDI and SAIFI performance data for the period January 1, 2002 to June 30, 2002.

(b)-(g) No change.)